

## Town Board Minutes August 16, 2010

Present: Supervisor Martin A. Ballowe, Councilmen James E. Pluta and Jeffrey A. Genzel and Jay P. Boardway and Councilwoman Cathy A. Maghran.

Also Present: Town Attorney Kobiolka

Councilwoman Maghran: This town council has made a pledge to the residents during our own individual campaigns to keep government open, honest and to try and lower taxes. We are trying to be fiscally responsible in every aspect with your tax dollars and are going through every budget. We openly requested one on one time with each fire company to learn what each does, what they have, what they need, and how they keep up with OSHA and government regulations. I attended each of the fire company meetings. Never, was there discussion on cuts, consolidations, or disbanding any of the fire services. Each company is unique and incorporates an impressive group of dedicated individuals who are working hard for public safety. We hope we can help find solutions to some of the costs that each company has encountered. We found out about the major erosion problems behind Patchin Fire Hall and that Boston Fire Hall needs a new garage. We requested a budget of projected expenses for 2011 to justify them to the public. In order to accomplish the goal of a fiscally responsible budget for each company, we need to dissolve the present budget that expires on December 31, 2010. This must be done by in writing to the fire companies by August 20, 2010 or the current budget renews automatically. The residents need to be certain that public safety is this Town Board's number one priority. There will be no changes in your fire service. We are not trying to hurt the fire companies. We are trying to do the job that we were voted into office to do.

Councilman Boardway read Resolution 2010-10, Cancellation of Fire Protection Contracts.

Numerous residents in attendance at this meeting spoke from the audience stating their disapproval of the Town Board's decision to pass Resolution 2010-10. Listed below are some of their concerns:

1. Why a letter was sent to the fire companies before the action was approved?
2. Are residents going to lose protection?
3. Boston Fire Company did not answer a call because the contracts were cancelled.
4. What happens to the protection of our properties if there is no contract in place?
5. If Plan B goes into effect with the mutual aide agreements, how does that affect home and business insurance within this town?

6. Is there one contract or three separate contracts with the fire companies?

Councilman Pluta notified in writing that that he is a member of the Patchin Fire Company. He also stated that he was not included in this decision and was not informed of the letter that was sent out to the fire companies until the day it was sent out. He stated as a Councilman he was entitled to be told about it, and asked Supervisor Ballowe why he was not told about it.

Supervisor Ballowe noted that Councilman Pluta was sent an E-mail from his office.

Councilman Pluta asked if there was a consensus with the other members of the Town Board.

Supervisor Ballowe noted that there was no inconsistency of notification to the Town Board members. All Town Board members were notified that the letter was being sent out.

Councilman Pluta asked if any other Town Board member was consulted before the letter was sent out.

Supervisor Ballowe noted that all members were sent an email and that Councilman Pluta did not respond to it. Supervisor Ballowe noted that Councilman Pluta was asked to attend meetings with all the fire companies. Councilman Pluta only attended one meeting with North Boston; he did not attend the meetings with Patchin or Boston.

Councilman Pluta asked if Supervisor Ballowe spoke with any other member of the Town Board about cancelling the contracts before he was emailed.

Supervisor Ballowe stated yes, he called everyone.

Councilman Pluta stated that as a Town Board member he is entitled to have input on those decisions and stated he was not included on this decision.

Supervisor Ballowe asked Town Attorney Kobiolka if Councilman Pluta, being a member of the Patchin Fire Company, is entitled to have input on decisions for the Fire Companies.

Town Attorney Kobiolka noted that according to the NYS Association of Towns, Councilman Pluta is not entitled to input if there is any benefit to him.

Councilman Pluta asked if there was a benefit to him by being a member of the Patchin Fire Company.

Supervisor Ballowe stated that there was a direct benefit because Councilman Pluta is a fire fighter.

Councilman Pluta quoted from the Association of Towns, entitled Permitted Contracts with Disclosure, General Municipal Law, Article 18, and Section 802. Councilman Pluta stated that he is permitted to have discussions and to vote on this type of issue.

Town Attorney Kobiolka stated that law allows the town to contract with a fire company that a member of the council belongs. That does not mean he can sit on the board and vote on it.

Councilman Pluta stated that all three of the fire companies have been in town for over 100 years and not once has a Town Board ever cancelled a contract. This clause is not new, so why didn't previous Town Board's cancel the contract to negotiate? It was stated that if this contract is not cancelled it will automatically renew for 2 to 5 years. The reason this clause was put into the contract was so if the town board and the fire companies came to an impasse, there would still be fire protection. It would automatically be renewed. If we do not have a contract with the fire companies as of December 31, there is no fire protection. The town fire companies cannot go out and put out fires, they will not be covered. That is why the clause is in there so that when a new contract is signed it automatically supersedes the old one.

Supervisor Ballowe stated that the reason we are cancelling the contract is because it gives the Town Board the ability to negotiate it, whether it is higher, lower, does not matter. If the fire companies need a certain amount of money, they present it to the Town Board, we negotiate it with them. This gives us the ability to watch over the town's money. I am not saying we are going to short change anyone. Certified letters were sent to each company.

Town Attorney Kobiolka stated that he advised the Town Board to have this public meeting. This meeting was called to reinforce Supervisor Ballowe's letter and that it is a Town Board contract and that it should be reviewed by the Town Board. If the Town Board votes not to do that, than the supervisor will have to retract his letter.

Supervisor Ballowe stated that the reason a letter was sent out to the fire companies first is because it is stipulated it has to be in writing that the contract will be cancelled.

Councilman Boardway stated that no one is losing fire protection in the Town of Boston. We are hopeful that we will come to an agreement before December 31, 2010.

Residents are concerned that if no agreement is reached, than there will not be any fire protection.

Councilman Boardway noted that he has had numerous conversations with Deputy Commissioner James McCullough of Erie County Division of Fire Safety. He informed me that the mutual aid agreement that is in place in Erie County, which has been signed by all Companies in Erie County, will make sure that the Town of Boston is protected. Surrounding towns would be called in.

Russ Metcalf, President Boston Fire Company: As long as there is a contract in force with any fire company in the Town of Boston they can get mutual aid. However, part of state law, the town has to be able to provide mutual aid before they can ask for it. So as long as there is one contract, they are all set. He stated that he feels there is a different interpretation of paragraph 14 of the contract. In the past, any time a contract is initiated, it supersedes and carries forward. You are sending a message to the taxpayer that you do not like the terms of the current contract.

Councilman Boardway stated that the Town Board came upon a deadline and as representatives of every resident of the Town of Boston, we reviewed this contract and it says that we have to notify the fire companies in writing by August 20 if we intend to put a new contract in place. We simply did what the contract said we had to do.

Councilman Pluta stated that yes, it is in the contract, but that cancellation was not to renew the contracts. The contracts as the Boston President stated automatically supersedes it. This contract was dated November 19, 2007 and would be effective 2008, 2009 and 2010. It states, "Whereas the previous contract between parties will expire on December 31, 2007?". So they negotiated a contract, put it in the contract that the previous one will expire and the new one takes effect. The contracts before 2007 stated the same thing. That clause is in there to protect the residents. They are taking away the one piece of protection you have. That is what they are taking away from you. This town board needs to negotiate in good faith.

Councilman Pluta asked who attended each meeting with the fire companies.

Supervisor Ballowe stated that he, Councilwoman Maghran, and Councilman Boardway attended the meeting with North Boston Fire Company, he, Councilman Boardway, Councilwoman Maghran, Councilman Genzel, and Town Attorney Kobiolka met with Patchin

Fire Company and he, Councilman Boardway, Councilman Genzel and Councilwoman Maghran met with Boston Fire Company.

Supervisor Ballowe stated they are not, not negotiating. In the gray area of that contract, it can be at the highest rate with increases. So the reality is to sit down with them, which I have done.

Councilman Boardway stated that if there is no contract in place the fire companies will be a business without a customer, with the exception of Boston Fire Company. He stated that the contracts have not been cancelled and will remain in effect until December 31, 2010. Prior administrations have put a clause into the contract that there has to be written notification by August 20. We simply complied with that provision of that part of the contract. With the exception of Boston, North Boston and Patchin Fire Companies exclusively contract with the Town of Boston. Within that there are other provisions of the contract besides the monetary payment. The point being that if there is not a contract with the town that is a correct statement.

Councilman Boardway stated that the Town Board is in communication with the attorney that the fire companies hired.

Councilman Pluta stated that the Town Board has an attorney representing them, the fire companies, when negotiating a contract should have an attorney.

Councilman Boardway stated that the Town Board fully intends to have contracts in place with all three companies. Plan B would be the mutual aide agreements that all the companies that have signed throughout the county. The Deputy Fire Commissioner has assured me of that today.

Councilman Pluta stated that the firefighters are taxpayers and are trying to provide the service with what they have. All of the fire Companies do numerous fundraisers to try and supplement the money received from the town. No one wants to pay more in taxes. But there are basic services that we have to have.

## RESOLUTION 2010?10      CANCELLATION OF FIRE PROTECTION CONTRACTS

A motion was made by Supervisor Ballowe and seconded by Councilman Boardway to adjourn the meeting at 8:20 p.m.

five (5) Ayes Carried

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JENNIFER A. MULE', DEPUTY TOWN CLERK